

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
SE/Corner Philadelphia Road and *
Allender Road * DEPUTY ZONING COMMISSIONER
(11631 Philadelphia Road) *
11th Election District * OF BALTIMORE COUNTY
5th Councilmanic District *
Case No. 97-187-X
Gus S. Glava and Thomas Pappagallo
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception for the property known as 11631 Philadelphia Road, located in the vicinity of Allender Road in Perry Hall. The Petition was filed by the owners of the property, Gus S. Glava and Thomas Pappagallo. The Petitioners seek a special exception for a service garage in a B.L. zone, and to approve the location of the existing building and parking area on the subject property. The relief requested is more particularly described on a site plan of the property which was submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Gus Glava and Thomas Pappagallo, legal owners of the property, Paul Lee, Professional Engineer who prepared the site plan of the property, and Francis X. Borgerding, Jr., Esquire, attorney for the Petitioners. There were no Protestants present at the hearing.

Testimony and evidence offered revealed that the subject property consists of 0.826 acres, more or less, zoned B.L., and is improved with a one story building towards the front of the property facing Philadelphia Road, and a garage and trailer towards the rear of the property adjacent to Allender Road. The one story building is being utilized as a service garage, while the garage and trailer to the rear of the property are used

ORDER RECEIVED FOR FILING
Date 12/16/96
By [Signature]

MICROFILMED

for storage. The Petitioners filed the instant Petition in response to a zoning violation notice they received for operating the service garage on the premises. Testimony revealed that the Petitioners have used the property for a service garage operation for some time; however, they were unaware that a special exception was necessary for this use until they were cited with a zoning violation. The Petitioners testified that the use of the property as a service garage is temporary in that they intend to develop the site with a strip shopping center, once public sewer is extended to the property. Testimony revealed that a new pumping station has been installed further down Philadelphia Road and that public sewer is scheduled to be extended to the subject property at some point in the near future. However, in the meantime, the Petitioners wish to continue to utilize the property for a service garage operation.

Section 502.1 of the B.C.Z.R. permits a service garage use in a B.L. zone by special exception. However, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use has been conducted without real detriment to the neighborhood and to allow its continued use as such would not adversely affect the public interest. The facts and circumstances do not show that the use of the subject property as a service garage would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

ORDER RECEIVED FOR FILING
12/1/81
12/1/81

The Office of Planning submitted Zoning Plans Advisory Committee comments dated November 14, 1996 in which they recommended that the Petitioners submit a landscape plan for review and approval as a condition of the special exception, if granted. The Petitioners testified that the service garage operation is temporary in that they intend to develop the property with a strip shopping center once public sewer is extended to the site. Given this temporary situation, I will not require that a landscape plan for the subject property be submitted at this time. However, once the Petitioners proceed with their plans for a strip shopping center on the site, a landscape plan will be required.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 6th day of December, 1996 that the Petition for Special Exception to permit a service garage operation in a B.L. zone, and to approve the location of the existing building and parking area on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) A landscape plan for the subject site will not be required at this time; however, at such time as the Petitioners proceed to develop the site with a strip shopping center, a landscape plan must be submitted for review and approval by the Office of Planning.
- 3) When applying for any permits, the site plan and/or landscaping plan filed must reference this case

RECEIVED

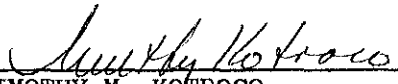
ORDER RECEIVED FOR FILING

Date

By

and set forth and address the restrictions of this
Order.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 12/11/06
102

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Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

December 6, 1996

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION
SE/Corner Philadelphia Road and Allender Road
(11631 Philadelphia Road)
11th Election District - 5th Councilmanic District
Gus S. Glava and Thomas Pappagallo - Petitioners
Case No. 97-187-X

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Messrs. Gus Glava and Thomas Pappagallo
3420 Fleet Street, Baltimore, Md. 21224

Mr. Paul Lee
304 W. Pennsylvania Avenue, Towson, Md. 21286

People's Counsel

Case File

MICROFILMED

187



Petition for Special Exception

97-187-X

to the Zoning Commissioner of Baltimore County

for the property located at #11631 Philadelphia Road

which is presently zoned B-L

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the

a service garage in BL zone and to approve location of building and parking as shown and existing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/lessee: Engineer;

Paul Lee Engineering, Inc.
(Type or Print Name)

Signature

304 W. Pennsylvania Avenue
Address

Towson, Maryland 21204
City State Zipcode

Attorney for Petitioner:

Francis X. Borgerding, Jr.
(Type or Print Name)

Signature

409 Wash. Ave., Ste. 600 296-6820
Address Phone No.

Towson MD 21204
City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)

Gus S Glava
(Type or Print Name)

Signature

THOMAS PAPPABALLO
(Type or Print Name)

Signature

3420 Fleet Street (410) 732-8026
Address Phone No.

Baltimore, Maryland 21224
City State Zipcode

Name, Address and phone number of representative to be contacted.

Francis X. Borgerding, Jr.
Name
409 Washington Avenue, Suite 600
Address
Towson, MD 21204 296-6820
Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2 hr
unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: mtl DATE 10/22/86

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Date

By

MICROFILMED



Paul Lee, P.E.

Paul Lee Engineering Inc.

304 W. Pennsylvania Ave.

Towson, Maryland 21204

410-821-5944

97-187-X

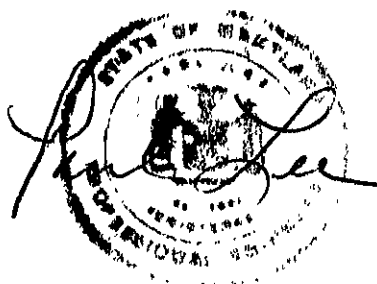
DESCRIPTION

#11631 PHILADELPHIA ROAD

ELECTION DISTRICT 11C5 BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point, said point being located at the intersection of the center of Philadelphia and Allender Roads; thence leaving the intersection of said roads and running in or near the center of Philadelphia Road (1) S 42°37' W - 205.70 feet, thence leaving said center of Philadelphia Road and running for the 5 following courses and distances: (2) S 47°23' E - 100.00 feet, (3) S 42°37' W - 50.00 feet, (4) S 47°23' E - 146.00 feet, (5) S 42°37' W - 75.00 feet to the north side of an existing 6.31' R/W, thence binding on said north side of existing 6.31' R/W (6) N 82°20' E 104.06 feet to a point located in or near the center of Allender Road, thence running in or near the center of said Allender Road, (7) N 08°39' W - 400.61 feet to the point of beginning.

Containing 0.826 acres of land more or less.



9/16/96
J.O. 96-030

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#187

Engineers — Surveyors — Site Planners



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

97-187-X

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 187

Petitioner: Gus S Glava

Location: 11631 Philadelphia Road

PLEASE FORWARD ADVERTISING BILL TO:

NAME: Francis X. Bergerding, Jr.

ADDRESS: 409 Washington Ave, Ste 600
Towson, MD 21204

PHONE NUMBER: (410) 296-6820

AJ:ggs

(Revised 09/24/96)

RECEIVED



CERTIFICATE OF POSTING

RE: Case No.: 97-187-X

Petitioner/Developer: _____

THOMAS PAPPAGALLIO

Date of Hearing/Closing: 11-22-96

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
were posted conspicuously on the property located at 11631 PHILADELPHIA RD.
BALTIMORE, MARYLAND 21162

Nov. 6, 1996

(Month, Day, Year)

Sincerely,

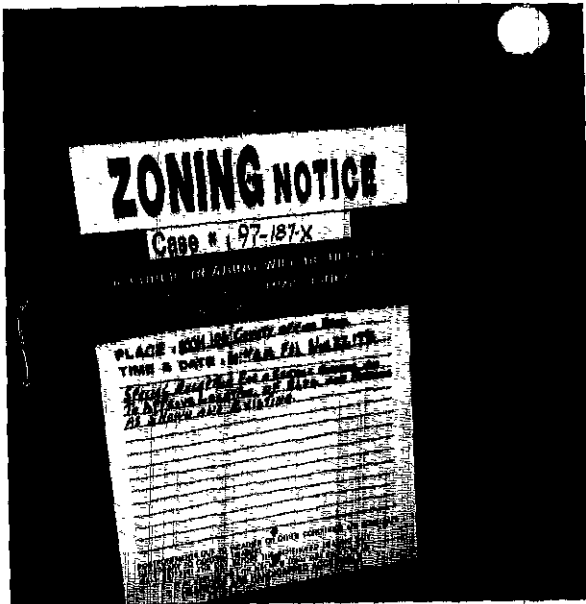
Thomas P. Ogletree 11/6/96
(Signature of Sign Poster and Date)

Thomas P Ogletree
(Printed Name)

325 Nicholson Road
(Address)

BALTIMORE, MARYLAND 21221
(City, State, Zip Code)

(410) 687-8405
(Telephone Number)



97-187-X

MICROFILMED

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: _____

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: permit a service garage in a B1 zone
and approve location of building and parking as
shown on existing

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TO: PUTUXENT PUBLISHING COMPANY
November 7, 1996 Issue - Jeffersonian

Please forward billing to:

Francis X. Borgarding, Jr., Esq.
409 Washington Avenue, #600
Towson, MD 21204
296-6820

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-187-X (Item 187)
11631 Philadelphia Road
corner S/S Philadelphia Road and W/S Allender Road
11th Election District - 5th Councilmanic
Legal Owner(s): Gus S. Glava and Thomas Pappagallo

Special Exception for a service garage and to approve location of building and parking as shown and existing..

HEARING: FRIDAY, NOVEMBER 22, 1996 at 10:00 a.m. in Room 106, County Office Building.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

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Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 31, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 97-187-X (Item 187)
11631 Philadelphia Road
corner S/S Philadelphia Road and W/S Allender Road
11th Election District - 5th Councilmanic
Legal Owner(s): Gus S. Glava and Thomas Pappagallo

Special Exception for a service garage and to approve location of building and parking as shown and existing.

HEARING: FRIDAY, NOVEMBER 22, 1996 at 10:00 a.m. in Room 106, County Office Building.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Gus Glava and Thomas Pappagallo
Francis X. Borgerding, Jr., Esq.
Paul Lee Engineering, Inc.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY NOVEMBER 7, 1996.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

ENCLOSURE





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 18, 1996

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, MD 21204

RE: Item No.: 187
Case No.: 97-187-X
Petitioner: Gus Glava, et al

Dear Mr. Borgerding:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on October 22, 1996.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)

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Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

November 7, 1996

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
MD 7 (south side)
11631 Philidelphia Road
Item #187 (MJK)
Mile Post 9.37

Dear Ms. Eubanks:

We have reviewed the referenced item and a field inspection reveals that the existing entrance is not acceptable to the State Highway Administration (SHA).

Although we have no objection to approval of the proposed variance request, we will require approval of an access permit be obtained through this office.

Entrance construction shall be subject to the terms and conditions of an access permit issued by this office, with the following submittals required:

- a. Nine (9) copies of the site plan showing the SHA requirements.
- b. Completed application.
- c. Performance bond, letter of credit, or certified check (**include Federal ID number or social security number on certified checks only**) in the amount of 150% of the actual entrance construction cost (to include the cost of relocating any affected utilities) and in an even thousand dollar increment. These must be made payable to the State of Maryland (**Please note that it takes 6-8 weeks for a certified check to be returned after project completion and SHA final inspection**).
- d. An engineering fee check in the amount of \$50.00 for each point of access, made payable to the State of Maryland.
- e. A letter of authorization from the appropriate agency relative to the relocation of any utilities which may be necessitated by this construction; or, a letter from the developer acknowledging and agreeing to the financial responsibility for relocating any affected utilities, provided the cost for the utility relocation is included in the surety submitted for the permit.

My telephone number is 410-545-5600 (Fax# 333-1041)

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

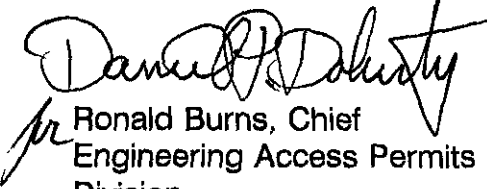
MICROFILMED

Ms. Roslyn Eubanks
Page Two
November 7, 1996

The surety for entrance construction must be received by this office prior to our approving any building permits for this development.

Should you have any questions, or require additional information, please contact Larry Gredlein at 410-545-5606. Thank you for your cooperation.

Very truly yours,


Ronald Burns, Chief
Engineering Access Permits
Division

LG/es

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: Nov. 1 96

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Nov. 4 1996

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:	183	190
	184	191
	186	193
	(187)	195
	188	

RBS:sp

BRUCE2/DEPRM/TXTSBP

MICROFILMED

B A L T I M O R E C O U N T Y, M A R Y L A N D

I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director
 Department of Permits & Development
 Management

Date: November 14, 1996

FROM: Robert W. Bowling, Chief
 Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
 for November 12, 1996
 Item No. 187

The Development Plans Review Division has reviewed the subject zoning item. This office recommends that if request is granted, that conformance with the Baltimore County Landscape Manual be made a condition.

RWB:HJO:jrb

cc: File

ZONE36B

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development Management

DATE: November 14, 1996

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: 11631 Philadelphia Road

INFORMATION:

Item Number: 187
Petitioner: Glava/Pappagalo Property
Property Size: _____
Zoning: BL
Requested Action: _____
Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

This office recommends that a landscape plan be submitted to the Baltimore County Landscape planner should the applicant's request be granted.

Prepared by: Jeffrey W. Long

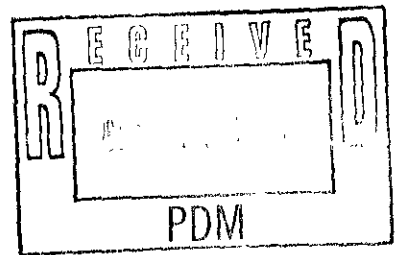
Division Chief: Carol L. Kerns

AFK/JL:rdn

Baltimore County Government
Fire Department



700 East Joppa Road
Towson, MD 21286-5500



Office of the Fire Marshal
(410) 887-4880

DATE: 11/14/96

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: GUS S. GLAVA & THOMAS PAPPAGALLO

Location: CORNER OF S/S PHILADELPHIA RD. AND W/S ALLENDER RD.
(11631 PHILADELPHIA RD.)

Item No.: 187

Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

FORGOTTEN



RE: PETITION FOR SPECIAL EXCEPTION
11631 Philadelphia Road, Cor S/S Phila-
delphia Road and W/S Allender Road
11th Election District, 5th Councilmanic

Gus Glava and Thomas Pappagallo
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 97-187-X

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 1996, a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Jr., Esq., 409 Washington Avenue, Suite 600, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

MICROFILMED

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

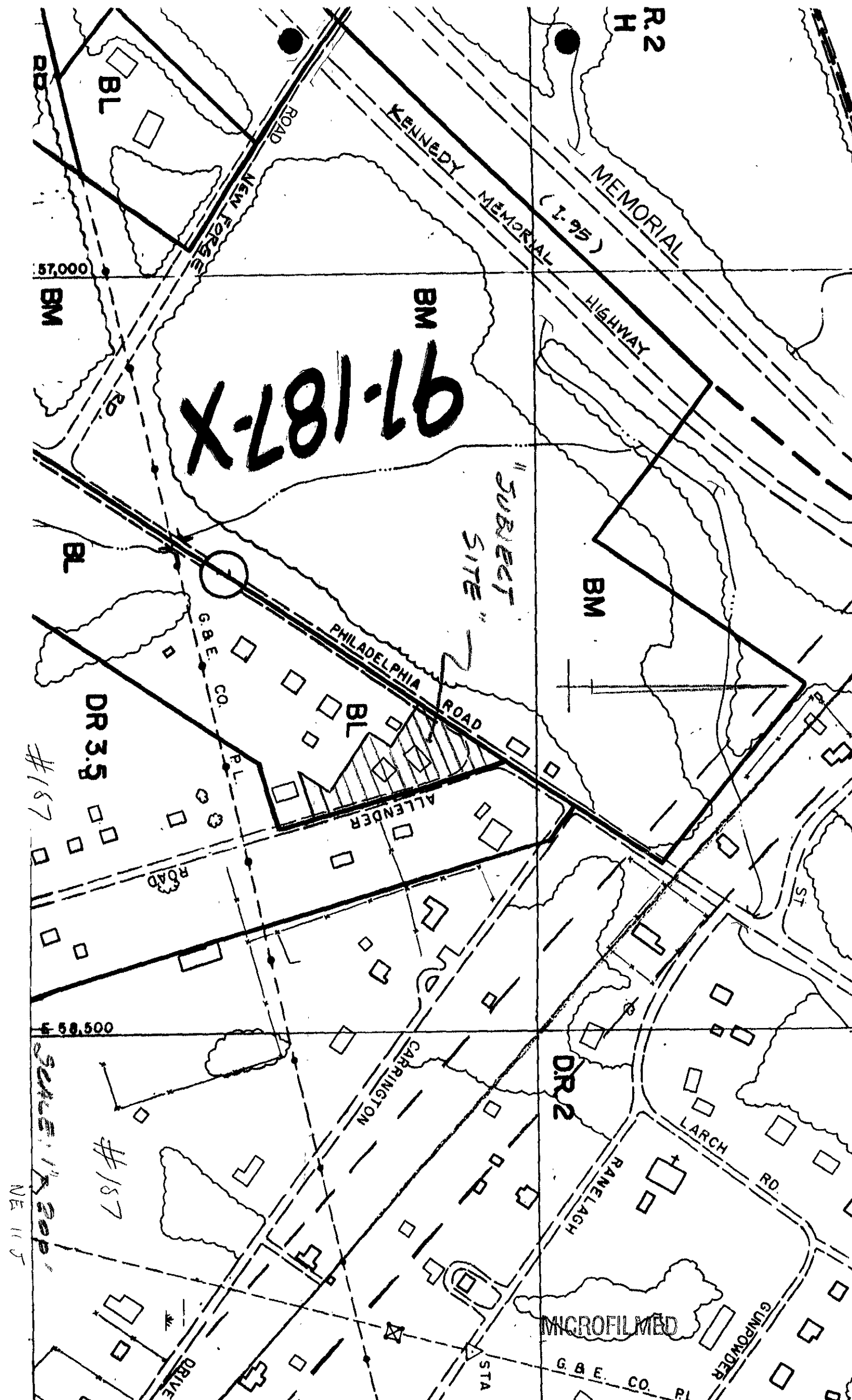
NAME

ADDRESS

Paul Lee
Mrs. Maria
Thomas Cappagallo

304 W. Pennsylvania Ave 21204
5030 SILVER SPRING RD
~~20~~ 3420 Fleet St Ave 21224





97-187-X

"SUBJECT SITE"

MICROFILMED

57,000

BM

BM

R.2 H

BL

ROAD

NEW FORGE

KENNEDY MEMORIAL (I-95) HIGHWAY

BL

BM

PHILADELPHIA ROAD

ALLENDR ROAD

DR 3.5

G.B.E. CO. PL

ROAD

58,500

DR 2

CARRINGTON DRIVE

LARCH RD

RANELAGH

GUNPOWDER

G.B.E. CO. PL

#187

SCHE 11

NE 115

